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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,642	04/06/2001	Donald P. Gravel	STE01 P-1067	9043
277	7590	12/11/2003	EXAMINER	
PRICE HENEVELD COOPER DEWITT & LITTON 695 KENMOOR, S.E. P O BOX 2567 GRAND RAPIDS, MI 49501			GREEN, CHRISTY MARIE	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 12/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/827,642

Applicant(s)

GRAVEL ET AL.

Examiner

Christy M Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-24 and 37-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 11, 12, 14, 17, 18, 23, 24, 37-43, 45-48, 52, 53, 56, 57 is/are rejected.
- 7) ☒ Claim(s) 4, 7-10, 15, 16, 19-22, 44, 49-51, 54 and 55 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

***DETAILED ACTION***

This is a third office action for serial number 09/827642, entitled Cover Panel Attachment System for Partitions, filed on April 6, 2001.

***Response to Amendment***

In response to the examiner's office action dated June 9, 2003, the applicant has cancelled claims 13 and 25-36 and added claims 43-57.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 50 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 50 recites the limitation "said cross-member" in line 1. There is insufficient antecedent basis for this limitation in the claim. Since this limitation was not previously stated within the claim, it therefore lacks antecedent basis. It is unclear as to if this is a new limitation of the invention or if is already a part of the invention. Correction should be made.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 11, 45-48, 56 and 57 are rejected under 35 U.S.C. 102(b) as being anticipated by Varlonga ('972). Varlonga teaches a frame (19,20) that has at least one

horizontal surface, a steel cover member 6 enclosing a portion of the frame, the cover member includes attachment members (elements located at the bottom and top, respectively, of the frame members, at approximate midpoint between numerals 6a and 7a in Figure 1), there is a seal 18 attached to the cover member, the seal includes a resilient flap which engages the horizontal surface of the frame, the cover member includes a horizontal flange that extends between the side edges of the cover member, the seal includes a U-shaped groove that is configured to accept the horizontal flange of the cover (Figure 1), the seal also includes at least one finger extending into the groove. In regards to claims 45-48, 56 and 57, Varlonga also discloses a frame (19) including a first and second surface, the first surface being substantially perpendicular to the second surface (see attached figure 1), a cover member (6) being configured to enclose at least a portion of the frame (19), the cover member including attachment members configured to connect the cover member to the frame and the first surface (see attached figure 1), and a seal (18) attached to the cover member, and including a resilient flap which engages the second surface of the frame (figure 1); the cover member (6) includes a flange extending between side edges of the cover member (see attached figure 1) and the seal (18) includes a u-shaped groove, the u-shaped groove configured to accept the flange of the cover member (see attached figure 1); the seal includes at least one finger extending into the u-shaped groove (see attached figure 1); the frame includes a third surface, the third surface being substantially parallel to the second surface (see attached figure 1), and further including a second seal (18) attached to the

cover member (6), the second seal including a resilient flap configured to engage the third surface of the frame (see attached figure 1).

Claims 1, 14, 37-42, 43, are rejected under 35 U.S.C. 102(b) as being anticipated by Omholt et al. ('573).

Omholt teaches a frame (10) including at least one substantially horizontal **and** vertical surface (**see attached figure 1**), a cover member 11 that is capable of enclosing a portion of the frame, the cover member has attachment members 21 (in Figures 2-4) that can connect the cover member (11) to the frame (10) **by engaging the frame at the at least one substantially vertical surface (figure 1)**, and there is a seal 22 attached to the cover member, the seal including a resilient flap (side portion that springs into place after being pinched) that engages a horizontal surface of the frame. The attachment members are removable from the cover, the cover is removable from the frame, the cover includes a vertical flange 61, and the attachment members are connected to the vertical flange. The substantially horizontal extending member is in a substantially vertical direction (see attached figure 1).

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 24 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Mecklenburg ('944) in view of Prewer ('855). Mecklenburg teaches a cover ~~as stated above~~, but does not state that it is wood. Prewer teaches that it is known to provide a wall system with a panel 11, 12, 13 that is made of wood. It would have been obvious to

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one having ordinary skill in the art at the time the invention was made to provide wall panels/covers that are made of various known materials, including wood, since it is within the general skill of a worker in the art to select a known material based on the suitability for the intended use as a matter of obvious design choice. Wood panels may provide a system with a thicker material that would insulate (sound and temperature) extremely well.

Claim 12 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Mecozzi ('899) in view of Prewer ('855). Mecozzi teaches a system with a sheet metal cover as stated above, but does not state that the cover could have wood or tack board attached or part of the cover. Prewer teaches that it is known to provide a wall system with a panel 11, 12, 13 that is made of wood. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide wall panels/covers that are made of various known materials, including wood, since it is within the general skill of a worker in the art to select a known material based on the suitability for the intended use as a matter of obvious design choice. The panel could have a wood board attached and therefore part of the cover, allowing for a facade on the metal surface. Wood panels may provide a system with a thicker material that would insulate (sound and temperature) better than a metal panel alone.

Claims 1, 5, 6, 14, 17, 18, and 23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Mecozzi ('899). Mecozzi teaches a frame 92 that includes a horizontal surface, a cover member 12 that has an attachment member 100, and a seal 96 attached to the cover member, the seal including a resilient flap that engages the

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horizontal surface of the frame. The frame further includes a horizontal cross-member having a window (where the fastener extends through), and the attachment member is inserted into the window. The cover member includes a horizontal flange member (Figure 1) that extends between the side edges of the cover. There is also a second seal 73 attached to the cover member, the second seal including a resilient flap (leftmost edge of the member).

Mecozzi teaches a horizontal cross member with a window and attachment member as stated (where the fastener extends through), but does not specifically state that there is a plurality of windows with a plurality of attachment members. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a plurality of windows with a corresponding plurality of attachment members, since mere duplication of a structural element is considered routine in the art. One would be motivated to place several fasteners, and therefore windows, because this would ensure a solid connection up and down the element.

Mecozzi teaches a system with a sheet metal cover as stated above, but does not state that the cover is specifically steel. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use steel as the cover, since steel is a commonly utilized sheet metal material in the art. Steel is strong, yet it can be formed or shaped as needed for a wall panel.

Claim 52 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Varlonga in view of Omholt et al.

Varlonga discloses the claimed invention as stated above in claim 45, except for the attachment members are removable from the cover member and the cover member is removable from the frame. Omholt teaches that it is known in the art to provide attachment members and a cover member that are removable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Varlonga with the removable attachment members and cover member as taught by Omholt in order to allow for different cover members to be applied to the partition to allow for more options for displays to improve upon the aesthetic appeal of the partition.

***Allowable Subject Matter***

Claims 4, 7-10, 15, 16, 19-22, 44, 49-51, 54 and 55 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed 9/15/03 have been fully considered but they are not persuasive.

In response to applicant's argument that Varlonga does not disclose a seal attached to a cover member or a seal that includes a resilient flap engaging a substantially horizontal surface of the frame, the Examiner would like to refer to the rejection above that states that the seal member is referred to as reference numeral 18. It can clearly be seen in Figure 1 that the seal 18 is attached to the cover member 6 and that the seal member 18 has a resilient flap that engages a horizontal surface of the



frame 19. Also, because figure 1, is a cross-section view of the panel, frame (19) runs in a horizontal direction, therefore within the attached figure 1, frame (19) does have a substantially horizontal surface of which a seal (18) is attached to. Also for further clarity, a resilient flap is pointed out within the attached figure in a blown up view of the seal (18) as well.

In response to the applicants argument that the gasket 918) is not attached to the plate (6) of Varlonga, the examiner recognizes the argument, however, within the Merriam's Webster's Collegiate Dictionary, 12 ed. The definition of attach, states, to assign temporarily; to make fast (as by tying or gluing). The definition for attachment states the physical connection by which one thing is attached to another, therefore by definition the gasket/seal (18) is very much attached to the plate/cover member (6) as seen in figure 1.

In response to applicant's argument that Varlonga does not disclose a seal having a u-shaped groove configured to accept a substantially horizontal flange of a cover member, the examiner recognizes the argument, however the examiner would like to again draw the applicants attention to the attached figure 1, where it is further shown the examiners interpretation of the claim language of the seal and in regards to the limitations within claims 2, 3 and 11.

In response to the applicants argument that the Omholt patent does not disclose a seal including a resilient flap and the clips 22 only abut vertical edges and not a horizontal surface, the examiner recognizes the applicants argument and again as shown in the attached figure 1, for further clarity of the examiners interpretation of a

substantially horizontal surface is shown. The word "substantially" is a broad term and is therefore interpreted broadly.

In regards to the applicants argument that Omholt et al does not disclose attachment members configured to connect a cover member to a frame, the examiners interpretation of the attachment members 921) are configured to connect a cover member (11) to a frame (10) are clearly shown within the figures as discussed within the above rejection or office action.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Mecklenburg or Prewer is not used to teach a cover member made of wood, since the applicant also states within claims 11 and 23 that the cover is also made of steel, and has not pointed out or provided any particular reason why a wood cover is pertinent and to change the material would only involve routine skill in the art it would have been obvious to combine the references to teach a wood cover panel.

In regards to the applicants argument that the Mecozzi patent does not disclose a resilient flap which engages a substantially horizontal surface of the frame or a seal attached to a cover member and including a resilient flap which engages a substantially

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horizontal surface of the frame, the examiner recognizes the argument, however if the linear bracked (92) of Mecozzi "extends horizontally" as applicant states in the remarks, page 16 paragraph 2, line 4, than there obviously would have to be a horizontal surface. A surface is made of an "x" and "y" axis, which allow for two possible directions to be horizontal and vertical. In regards to a seal (96) being attached to a cover member (12 – since where 54 points to is integral with 12; it is therefore attached) and including a resilient flap (see attached figure 1) which engages a substantially horizontal surface of the frame, is shown to be disclosed as stated above. Please refer to the newly attached figures for clarity on examiners interpretation of the limitations in question.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 703-308-9693. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
Cg

December 9, 2003

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600



